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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,291	06/27/2003	Steven Clay Moore	AMG-4017.PAT	8734
38518 7590 08/10/2009 SCHUBERT OSTERRIEDER & NICKELSON PLLC 6013 CANNON MTN DR, S14 AUSTIN, TX 78749				
EXAMINER MEHMOOD, JENNIFER				
ART UNIT 2612		PAPER NUMBER		
MAIL DATE 08/10/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte*: STEVEN CLAY MOORE

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Application No. 10/607,291  
Technology Center 2600

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Mailed: August 10, 2009

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Before MARIA VIGNONE, *Supervisory Trial Clerk*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on June 11, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Examiner's Answer mailed October 31, 2007 under the heading "Grounds of Rejection" is not consistent with the grounds of rejection of claims set forth in the last Office Action of record. The grounds of rejection of the claims as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory Action responsive to any After Final submissions. Each round of rejection to be reviewed on appeal must be identified and any new grounds of rejection must be provided under a separate heading "New Grounds of Rejection" in the Examiner's Answer and must include the approval of the TC Director or his/her designee. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 and 1207.03 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

A review of the Examiner's Answer finds a new Ground of Rejection that has not been provided the required heading "New Grounds of Rejection" and which does not include the approval of the TC Director or his/her designee.

Specifically, the Examiner's Answer sets forth a rejection of claims 1 and 5 as being rejected under 35 U.S.C. § 112, second paragraph; whereas the last Office action, including any mailed Advisory Action(s) finds that claims 1 and 5 were only rejected under 35 U.S.C. §102(b) in the Final Rejection mailed December 28, 2006. Correction of all Grounds of rejection for all claims is required.

**CONCLUSION**

Accordingly, it is

**ORDERED** that the application is returned to the Examiner to:

- 1) to vacate the Examiner's Answer mailed October 31, 2007;
- 2) to generate a new Examiner's Answer setting forth the correct Grounds of rejection and to correct other sections of the Answer as may be required;
- 3) to include the approval of the TC Director or his/her designee (as required for any new grounds of rejection); and
- 4) for such further action as may be necessary

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

MV/nhl

SCHUBERT OSTERRIEDER & NICKELSON PLLC  
6013 CANNON MTN DR, S14  
AUSTIN TX 78749